

UNITED STATES DISTRICT COURT
DISTRICT OF MASSACHUSETTS

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U.S. DISTRICT COURT
DISTRICT OF MASS.

FAFARD REAL ESTATE &
DEVELOPMENT CORP.

Plaintiff,

vs.

METRO-BOSTON BROADCASTING,
INC.,

Defendant

NO. 04-11531-RGS

CORRECTION TO TRIAL MEMORANDUM

Defendant needs to correct an error in one paragraph on p. 31 of the previously filed Trial Memorandum. As corrected, the paragraph should read as follows (changes are underlined):

Defendant's evidence will show that, during these extensions, plaintiff did not make diligent good faith efforts to put itself into a position to close the transaction, but delayed the transaction in the hope of improving the contract and benefiting from the escalation of the property's value while having no money at risk. Further, plaintiff is now claiming that it did not really need a second means of access to the property, but simply preferred a second means of access, being ready, willing, and able to close without it, even though plaintiff never disclosed this to defendant. On May 21, 2004, after having submitted three written requests for a 25th extension of the closing date, claiming that plaintiff still needed to resolve the access issue, plaintiff unilaterally, and without notice to defendant, went to the registry of deeds ostensibly to close on the transaction, even though – because plaintiff had said nothing to defendant – plaintiff

had no realistic expectation or reason to believe that defendant would be there.

METRO-BOSTON BROADCASTING, INC.

By its attorneys,



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February 9, 2005

Certificate Of Service

I certify that I served this document today on opposing counsel by hand.



Kenneth R. Berman

February 9, 2005

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